

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-2405

UNITED STATES OF AMERICA

v.

DONALD L. DONOVAN,
Appellant

On Appeal from the United States District Court
for the District of Delaware
D.C. Criminal No. 03-cr-00030
(Honorable Kent A. Jordan)

Submitted Pursuant to Third Circuit LAR 34.1(a)
March 7, 2005

Before: SCIRICA, *Chief Judge*, ROTH and BECKER, *Circuit Judges*

(Filed: March 31, 2005)

OPINION OF THE COURT

SCIRICA, *Chief Judge*.

Following a jury trial in the District of Delaware, appellant Donald Lee Donovan was found guilty of eight counts of tax evasion. He was sentenced on May 7, 2004.

Donovan does not challenge his conviction.

Appellant challenges his sentence under *United States v. Booker*, 543 U.S. - -, 125 S. Ct. 738 (2005). Having determined that the sentencing issues appellant raises are best determined by the District Court in the first instance, we will vacate the sentence and remand for resentencing in accordance with *Booker*.